

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-HC-2131-FL

SAM REED SCRUGGS,

Petitioner,

v.

UNNAMED RESPONDENT,

Respondent.

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ORDER

Petitioner Sam Reed Scruggs filed this petition for writ of mandamus pursuant to 28 U.S.C. § 1361. The matter is before the court for on petitioner's motion for a voluntary dismissal. An action may be dismissed voluntarily by petitioner without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R.Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the petitioner's request except upon an order of the court. See Fed. R.Civ. P. 41(a)(2).

At this point, defendants have not been served, nor have they filed a motion for summary judgment. Accordingly, the court allows petitioner's request to voluntarily dismiss this action pursuant to Rule 41(a)(1), and the matter is DISMISSED without prejudice. The remaining pending motions are DENIED as moot. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this the 13th day of October, 2010.


LOUISE W. FLANAGAN

Chief United States District Judge